

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Museums and Cultural Affairs

AGENDA DATE: June 7, 2011 for Introduction and June 14, 2011 for Public Hearing

CONTACT PERSON NAME AND PHONE NUMBER: Sean McGlynn, MCAD Director, 541-4898

DISTRICT(S) AFFECTED: All

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

An Ordinance amending TITLE 2 (Administration and Personnel), CHAPTER 2.40 (Department of Museum and Cultural Affairs) adding SECTION 2.40.100 (Artist Market) to create an Artist Market permitting vendors from the region to display and sell hand made or hand assembled items for the benefit of the citizens and visitors to El Paso.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Working with partners at the Downtown Management District and Department of Planning/Economic Development MCAD proposes an ordinance allowing for implementation of a weekly artist market in the Union Depot District that will:

- 1) provide vending opportunities for local artists to sell handmade wares
- 2) act as an additional tourist amenity for downtown El Paso
- 3) activate the Union Depot District's daytime presence

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

On 1/25/2011 MCAD presented proposed scenario for re-use of Texas vs. the Nation funds, with a portion allocated towards creation of a weekly artist market. Council requested MCAD come back with other items adjusted from original proposal.

On 02/08/2011 MCAD presented a revised scenario which retained the creation of a weekly artist market that was approved.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

\$60,000 for FY12 from HOT Fund 15707-55010303-502215-55000

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.40 (DEPARTMENT OF MUSEUM AND CULTURAL AFFAIRS) ADDING SECTION 2.40.100 (ARTIST MARKET) TO CREATE AN ARTIST MARKET PERMITTING VENDORS FROM THE REGION TO DISPLAY AND SELL HAND MADE OR HAND ASSEMBLED ITEMS FOR THE BENEFIT OF THE CITIZENS AND VISITORS TO EL PASO; THE PENALTY PROVIDED IN SECTIONS 1.08.010 THROUGH 1.08.030 OF THE CITY CODE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF EL PASO:

1. That the El Paso City Code is amended to add Title 2 (Administration and Personnel), CHAPTER 2.40 (Department of Museum and Cultural Affairs) adding Section 2.40.100 (Artist Market), which reads as follows:

2.40.100 – Artist Market

A. Definitions. As used in Section 2.40.100, the following terms shall have the following meanings:

1. “Artist Market” means the sale of locally made, home crafted or hand assembled arts and crafts, which have been home crafted or hand-assembled or produced by the seller or members of the seller’s household, including leather goods; drawings, paintings and prints; photographs; woodwork; metalcraft; ceramics and pottery; weaving and yarn work; macramé; needlework; beadwork; sculpture; jewelry; stitchery and sewing; clothing and accessories; glasswork; natural fiber crafts and basketry; live street music performers without amplification, more specifically defined in Artist Market Policies and Procedures (hereinafter “policies and procedures”) authorized to be developed by the Museums and Cultural Affairs Department.
2. “Union Plaza Area” means the area bounded by the northern boundary of San Francisco Street, the Eastern boundary of Durango Street, the Southern Boundary of San Antonio Street and the Westerly boundary of Anthony Street.
3. “Artist market manager” means the city manager or designee appointed to administer the city's policies and procedures relevant to the organization, administration and management of the artist market and events related thereto.

4. "Homemade or hand assembled" means an item that has two or more distinctive parts, combined and permanently attached by intent, labor, creativity and skill to produce a more attractive or valuable product, which were made by the Vendor.
5. "Region" means within 100 miles of the Union Plaza Area.
6. "Vendor" means resident of the region who displays and sells homemade or hand assembled goods at the Artist Market and those who are members of the same household. A vendor shall not have a storefront or sell his or her artwork from a store, with the exception of vendor applicants who have a storefront in the Union Plaza Area. A vendor must be 18 years old or older.

B. Authorization. The city manager or a designee is hereby authorized to create an outdoor Artist Market permitting vendors to sell handmade or hand assembled merchandise. The Artist market will take place in the Union Plaza Area on any Saturday during the year as scheduled by the Artist market manager, and each event may run from 5:00 am until 2:00 pm, which includes time for set-up, event open to members of the public for purchase of merchandise and tear down. The city manager or a designee is hereby authorized to establish artist market procedures (the "procedures") for its operation in compliance with this chapter.

C. Vendor Permit.

1. The Artist market manager may issue a permit authorizing a person to be a vendor at the Artist market. Such permit shall contain the vendor's name and the type of handmade or hand assembled merchandise that is authorized for sale at the Artist market.
2. Vendor spaces at the Artist Market will be available on a first come, first served basis at each scheduled event. The fee for weekly use of vendor spaces shall be in the amount set forth in the budget resolution of the city council or another resolution of the city council. A vendor must purchase no less than four weekly vendor space uses at a time.
3. The city manager or a designee and is hereby authorized to approve, deny, revoke or suspend such permit. Grounds to deny, revoke or suspend a permit are as follows:
 - (a) a violation of this chapter; or
 - (b) a public offence or disturbance that causes disruption to the operation of the Artist Market.
2. Decision Review.

- (a) Intent of Review – The applicant must submit a written request for review letter to the Artist market manager within 21 business days from the date of the denial, revocation or suspension. This correspondence must be addressed the Artist market manager, and must include specific information identifying the applicant, the type of handmade or hand assembled craft for which a vendor permit is being applied for, and a brief description on the basis of which an review is being sought (e.g., administrative error, conflict of interest, presentation of misinformation, etc.).
- (b) Conference – Following the receipt and review of the request for review letter, the director of MCAD (“director”) will then schedule a conference with the appellant to review and discuss the denial, revocation or suspension of the vendor permit, and to allow the applicant to express his or her reasons for requesting review of the decision. Based on the findings of this conference, a response document will be developed by the director or a designee identifying the findings, and will be provided to the applicant within 10 business days.
- (c) Conclusion –If the director finds grounds for review and reconsideration, the permit application will be re-evaluated by the city manager or designee with consideration of the findings of the conference.

D. Use of Union Plaza and Streets.

- 1. The Museums and Cultural Affairs Department (the “department”) is authorized to use the Union Plaza to conduct the Artist Market only during the days and hours as set forth in the policies and procedures established by the city manager or a designee.
- 2. Use of the public rights of way must be in compliance with Sections 12.30.030(D), 13.20.040(C)(4) and 15.08.120(G) of this code. The department shall be exempt from the permitting requirement, however shall notify the El Paso Department of Transportation (“EPDOT”) on a quarterly basis of dates, times, and shall provide a master traffic control plan approved by the City traffic engineer for all planned Artist market events. The department shall notify EPDOT of any changes within 30 days of the changed event.
- 3. The department is hereby authorized to temporarily close the public right-of-way in the Union Plaza Area for the purpose of any Artist market scheduled in accordance with this chapter during the days and times specified in this chapter.

E. Proof of tax eligibility. All vendors must provide proof of gross receipts tax collection capabilities when conducting business at the artist market, which must either be a state sales tax permit or an exemption certificate. Proof shall be provided to the city manager

or a designee. All vendors shall abide by all Federal and State laws regarding taxation and immigration.

F. Vendor requirements.

1. Vendors must permit the Artist market manager or a designee to inspect the homemade or hand assembled artwork to verify authenticity at the Vendors studio or location where the artwork is made as well at the Artist market.
2. A vendor must not display, offer for sale, or sell any merchandise in the Artists market without a permit issued pursuant to this chapter and the policies and procedures.
3. All vendors must sell only merchandise authorized and approved under the policies and as the vendor's individual permit allows. Vendor must display his or her permit at all times when displaying or offering merchandise at the Artist market.
4. A vendor must pay the permit fee established by resolution of the city council before using or occupying space at the artist market, unless exempt under this chapter.
5. Vendor permits will not be issued for items made in any medium which are commonly used, or intended to be used for the consumption of illegal drugs, to include but not be limited to pipes, bongs and other paraphernalia. These items are prohibited from the Artist market.
6. Vehicles.
 - (a) All vehicles shall be removed from the Union Plaza area fifteen minutes prior to the start of the Artist market. All vehicles are prohibited from driving on the sidewalks in Union Plaza during the Artist market, with the exception of city and emergency vehicles, vehicles authorized by the department under the procedures, and Artist market vehicles used to load and unload merchandise and equipment during specified times as designated in the procedures.
 - (b) The active use of bicycles, skateboards, roller blades, and roller skates are prohibited in the Union Plaza area during artist market hours with the exception of such items used by law enforcement personnel or pedicabs licensed under Chapter 6.34 of this code.
 - (c) No person shall cause an obstruction of the entrances of businesses adjacent to artist market.

7. Vendors must remove all equipment, supplies, and trash from the vendor space and leave the vendor space in the same condition that it was in upon vendor's arrival.
8. Vendors may not display or sell obscene items as defined in the Texas Penal Code Chapter 43.
9. It is unlawful for any person to do any act forbidden, or fail to perform any act required in sub-section (F)(6).

G. Specially reserved vendor spaces.

1. Two vendor spaces in the Artist market are reserved for use by a licensee who is 60 years of age or older or physically disabled.
 2. A person may not claim use of or occupy a space reserved under this section unless the person is licensed under this chapter and meets the above requirements and follows the procedures established pursuant to this chapter.
 3. A person obtaining a permit under this section (G) is exempt from the permit fee established if the person provides proof that he is 60 years of age or older or certification of disability in accordance with the procedures established pursuant to this chapter.
2. Except as herein amended, the El Paso City Code remains in full force and effect.

ADOPTED this _____ day of _____, 2011.

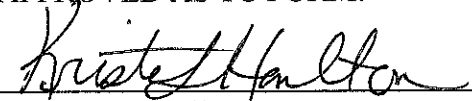
CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

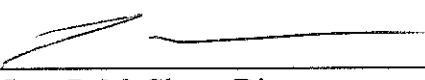
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Kristen L. Hamilton
Assistant City Attorney

APPROVED AS TO CONTENT:



Sean P. McGlynn, Director
Museums & Cultural Affairs Department